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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,261	11/07/2005	Taio Sugahara	44471/313978	2057
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JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET SUITE 2800 ATLANTA, GA 30309			EXAMINER FEACHER, LORENA R	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/528,261

Applicant(s)

SUGAHARA, TAIO

Examiner

RENAE FEACHER

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/07/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 03/17/2005
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This action is a first action on the merits in response to the application filed on 11/07/2005.
2. **Claims 1 – 30** are currently pending and have been examined in this application.

Priority

Applicant's claim for the benefit of a prior-filed application, JP2002-273155 under 35 U.S.C. 119 (a)-(d), 120, 121, or 365(c) is acknowledged.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. **Claims 29-30** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. **Claim 29** recites "...the presenting means further accumulating the replies and processing the accumulated replies to a browseable form..." Examiner is unclear as to what is meant by 'processing' and therefore the claim is indefinite. Is the means processing the replies into a browseable form or simply sending or communicating the information to a webpage? For purposes of examination, Examiner interprets 'processing' to mean sending or communicating the response data to a client web page. **Claim 30** is rejected based on the same rationale as **Claim 29**, above.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-2, 4, 6, 8-10, 12, 14, 16, and 18-20** are rejected under 35 U.S.C. 102 (b) as being anticipated by Maeda (US 2002/0038302).

7. **Claim 1:**

Maeda as shown discloses the following limitations:

- *presenting a number of different and available question contents from the question providing unit to the client terminal* (see at least ¶0031-¶0032; see also Figures 2-3, where the proposing unit retrieves questionnaire form data from the questionnaire data containing a collection of categorized questions/answers and provides the form to the requester PC, the requester can then select questions types and answer content for the survey)
- *recognizing a group of questions that the client selects from the question contents presented to the client terminal* (see at least ¶0031-0032; see also Figures 2-3; see also ¶0012, where the requester selects questions and answer content and stores the selected questions/answers (e.g. recognizing))
- *memorizing the group of questions and the client in correspondence with each other* (see at least Figure 1; see also ¶0012, where the questionnaire database stores (e.g. memorizing) questions/answer types selected by the requester)
- *when an access including information identifying the client is generated from the audience terminal presenting the group of questions corresponding to the client to the audience terminal thereby urging the audience to make replies to the questions and further obtaining the replies* (see at least ¶0036, when a user clicks on a banner advertisement the questionnaire is displayed on the web page; see also ¶0040, (e.g. other methods to distribute questionnaire); see at least ¶0042, where the aggregating unit aggregates responses and the proposing unit provides the responses to the requester)

- *presenting the replies to the client terminal, in a browseable form where analysis results by different question contents are combined with each other, based on the obtained replies (see at least ¶0042, where the aggregating unit aggregates responses and the proposing unit provides the response to the requester)*

8. **Claim 2:**

Maeda as shown discloses claim 1, above. Maeda further discloses the following limitation:

- *it is carried out to present a question-group using fee in case of obtaining the replies as a result of presenting the question contents to the audience terminal, thereby urging the client terminal to select the question contents (see at least ¶0038, where the charge calculation unit calculates the fee charged for the questionnaire and the fee may vary according to different factors)*

9. **Claim 4:**

Maeda as shown discloses claim 1, above. Maeda further discloses the following limitation:

- *when receiving a payment of a question-group using fee in case of obtaining the replies as a result of presenting the question contents to the audience terminal it is executed to pay part of the question-group using fee to the side of the question providing unit (see at least Figure 3b; see also ¶0044, where the central controller settles the survey cost)*

10. **Claim 6:**

Maeda as shown discloses claim 1, above. Maeda further discloses the following limitations:

- *presenting information to the client terminal corresponding to the analysis result (see at least ¶0042, where the aggregating unit aggregates responses and the proposing unit provides the responses to the requester)*
- *the information representing that the client is capable of nominating step-by-step selecting of an audience whom the question contents are presented (see at least Figure 4; see also ¶0034 and ¶0037, where the requester specifies target criteria for target user; see also ¶0041-¶0042, where*

the questionnaire is sent to the targeted user)

11. Claim 8:

Maeda as shown discloses claim 1, above. Maeda further discloses the following limitations:

- *presenting information to the client terminal corresponding to the analysis result (see at least ¶0042, where the aggregating unit aggregates responses and the proposing unit provides the responses to the requester)*
- *the information representing that the client is capable of nominating step-by-step selecting of an audience whose information is disclosed to the client (see at least ¶0009, where the user database stores user's personal information including user's attribute data, indicating that the user is known by the system)*

12. Claim 9:

Maeda as shown discloses claim 1, above. Maeda further discloses the following limitations:

- *presenting the questions to the audience terminal belonging to a group thereby urging the audience to make the replies to the questions (see at least ¶0040, where the questionnaire is sent to the target users)*
- *further performing a data processing so that the replies from the audience terminal produce a barometer for rating the group (see at least Figure 8 and associated text; see also ¶0042, where the response ratio acts as an indicator of the response level of the targeted group)*

13. Claim 10:

Maeda as shown discloses claim 1, above. Maeda further discloses the following limitations:

- *presenting a variance of the audience in worth to the client corresponding to formulation of the analysis result based on the replies obtained from the audience terminal (see at least Abstract; see also ¶0037, where the point setting unit sets points to be awarded to target users in response to the questionnaire with each question having different point values based on question type and response*

level; see also ¶0041, where the points awarded corresponds to the number of questions answered, showing the user with the most points as answering potentially more questions or questions requiring amore detailed response, which ultimately shows the value of the user to the requester based on his response to the questionnaire)

Claims 1-2, 4,6, and 8-10 recite the method steps of **Claims 12, 14, 16, 18-20, 22 and 24** for a method (theme) and **Claim 29** for a system and are rejected based on the same rationale as given above.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

16. **Claims 3, 7, 13, 17, and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda (US 2002/0038302) in view of Kim (US 2005/0075919).

17. **Claim 3:**

While Maeda discloses a charge calculating unit for calculating the questionnaire fee (see ¶0038), Maeda does not disclose the following limitation; however, Kim as shown does disclose:

- *when using a plurality of different question contents, it is carried out to present a discounting of a question-group using fee* (see at least ¶0043, when customers request a large number of surveys the survey cost may be discounted)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the calculating unit of Maeda with the discounting functionality of Kim since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable, and further providing an incentive for clients to purchase additional surveys/questionnaires for analysis of business data.

18. **Claim 7:**

While Maeda discloses *selecting an audience whom the question contents are presented corresponding to the analysis result and presenting information to the client terminal* (see at least Figure 4; see also ¶0034 and ¶0037, where the requester specifies target criteria for target user; see also ¶0041-¶0042, where the questionnaire is sent to the targeted user), Maeda does not disclose the following limitation; however, Kim does disclose:

- *the information representing a possibility of presenting different question contents to the audience* (see at least ¶0036; see also ¶0053-¶0054, where the question form contains questions capable of being performed only when respondent selects specific responses indicates that different questions could be posed to the various targeted respondents)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine selecting a target user functionality as taught in Maeda with the skip pattern and question control language functionality in Kim, in order to obtain more detailed responses from respondents of a survey by providing more detailed questions based on the received responses, thus enabling a requester to acquire additional information for analysis purposes.

Claims 3 and 7 recite the method steps of **Claims 13, 17, and 23** for a method and are rejected based on the same rationale as given above.

19. **Claims 5, 27, and 28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda (US 2002/0038302) in view of Kim (US 2005/0075919) further in view of Hutchinson, Greg. ISO 9000: A Comprehensive Guide to Registration, Audit Guidelines and Successful Certification. Canada: John Wiley de Sons, Inc. 1997, pg. 117.

20. **Claim 5:**

While Maeda discloses *allowing the analysis result of the audience based on accumulated replies to correspond to information identifying the audience* (see at least ¶0037; see also ¶0041-¶0042, where the responses obtained from the target users are aggregated and presented to the requester), Maeda does not disclose the following limitation; however, Kim does disclose:

- *further accumulating the analysis result and the information in an outside-leakproof form* (Kim see at least ¶0040, where the requester of the survey can choose to make the results of the survey public or non-public (e.g. leak-proof))

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine selecting and generating questionnaire functionality of Maeda with the ability to designate survey results public or non-public as taught in Kim since the claimed invention is merely a combination of old

elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

While Maeda and Kim disclose the above limitations, neither Maeda or Kim disclose the following limitation; however, Hutchins does disclose:

- *granting a certificate inscribing the analysis result of the audience together with the information identifying the audience at a client's request* (see at least pg 117, where the auditor performs an audit of a site's ISO 9000 certification using a tailored setup questions and if site complies with audit requirements a registration certificate is issued)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the selecting and generating questionnaire functionality of Maeda with the ability to designate survey results public or non-public as taught in Kim with the issuing of a certification after audit completion as taught in Hutchins in order to perform a certification audit or assessment utilizing a survey to ensure the required criteria has been met before issuing a certification.

21. **Claim 27:**

While Maeda discloses *presenting a number of different and available question contents from the question providing unit to the client terminal*(see at least ¶0031-¶0032; see also Figures 2-3, where the proposing unit retrieves questionnaire form data from the questionnaire data containing a collection of categorized questions/answers and provides the form to the requester PC., the requester can then select questions types and answer content for the survey), *recognizing a group of questions that the client selects from the question contents presented to the client* (see at least ¶0031-0032; see also Figures 2-3; see also ¶0012, where the requester selects questions and answer content and stores the selected questions/answers (e.g. recognizing)), *memorizing the group of questions selected and the client in correspondence with each other* (see at least Figure 1; see also ¶0012, where the questionnaire database stores (e.g. memorizing) questions/answer types selected by the requester), *when an access*

including information identifying the client is generated from the audience terminal, presenting the group of questions corresponding to the client to the audience terminal thereby urging the audience to make replies to the questions and further obtaining the replies (see at least ¶0036, when a user clicks on a banner advertisement the questionnaire is displayed on the web page; see also ¶0040, (e.g. other methods to distribute questionnaire); see at least ¶0042, where the aggregating unit aggregates responses and the proposing unit provides the responses to the requester), and allowing the analysis result of the audience based on the replies obtained to correspond to information identifying the audience (see at least ¶0037; see also ¶0041-¶0042, where the responses obtained from the target users are aggregated and presented to the requester), Maeda does not disclose the following limitations; however, Kim does disclose:

- *further accumulating the analysis result and the information in an outside-leakproof form (see at least ¶0040, where the requester of the survey can choose to make the results of the survey public or non-public (e.g. leak-proof))*

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine selecting and generating questionnaire functionality of Maeda with the ability to designate survey results public or non-public as taught in Kim since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

While Maeda and Kim disclose the above limitations, neither Maeda or Kim disclose the following limitation; however, Hutchins does disclose:

- *granting a certificate inscribing the analysis result of the audience together with the information identifying the audience at a client's request (Hutchins see at least pg 117, where the auditor performs an audit of a site's ISO 9000 certification using a tailored setup questions and if site complies with audit requirements a registration certificate is issued)*

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the selecting and generating questionnaire functionality of Maeda with the ability to designate survey results public or non-public as taught in Kim with the issuing of a certification after audit completion as taught in Hutchins in order to perform a certification audit or assessment utilizing a survey to ensure the required criteria has been met before issuing a certification.

22. **Claim 28:**

While Maeda discloses *presenting a number of different and available themes to the client terminal*(see at least ¶0031-¶0032; see also Figures 2-3, the proposing unit retrieves questionnaire form data from the questionnaire data base containing a collection of categorized questions/answers with questionnaire forms categorized according to themes and provides the form to the requester PC, where the requester can then select questions types and answer content for the survey), *recognizing a theme that the client selects from the themes presented to the client* (see at least ¶0031-0032; see also Figures 2-3; see also ¶0012, where the requester selects questions and answer content, such as a theme content, and stores the selected questions/answers (e.g. recognizing)), *memorizing the theme selected and the client, in correspondence with each other* (see at least Figure 1; see also ¶0012, where the questionnaire database stores (e.g. memorizing) questions/answer types selected by the requester), *when an access is generated from the audience terminal having the theme nominated, presenting the group of questions corresponding to the theme to the audience terminal thereby urging the audience to make replies to the questions and further obtaining the replies* (see at least ¶0036, when a user clicks on a banner advertisement the questionnaire is displayed on the web page; see also ¶0040, (e.g. other methods to distribute questionnaire); see also ¶0042, where the aggregating unit aggregates responses and the proposing unit provides the responses to the requester), *allowing the analysis result of the audience based on the replies obtained to correspond to information identifying the audience* (see at least ¶0037; see also ¶0041-¶0042, where the responses obtained from the target users are aggregated and

presented to the requester), Maeda does not disclose the following limitations; however Kim does disclose:

- *further accumulating the analysis result and the information in an outside-leakproof form (see at least ¶0040, where the requester of the survey can choose to make the results of the survey public or non-public (e.g. leak-proof))*

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine selecting and generating questionnaire functionality of Maeda with the ability to designate survey results public or non-public as taught in Kim since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

While Maeda and Kim disclose the above limitations, neither Maeda or Kim discloses the following limitation; however, Hutchins does disclose:

- *granting a certificate inscribing the analysis result of the audience together with the information identifying the audience at a client's request*(Hutchins see at least pg 117, where the auditor performs an audit of a site's ISO 9000 certification using a tailored setup questions and if site complies with audit requirements a registration certificate is issued)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the selecting and generating questionnaire functionality of Maeda with the ability to designate survey results public or non-public as taught in Kim with the issuing of a certification after audit completion as taught in Hutchins in order to perform a certification audit or assessment utilizing a survey to ensure the required criteria has been met before issuing a certification.

Claim 5 recites the method steps of **Claims 15 and 25** and are rejected based on the same rationale as given above.

23. **Claims 11 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda (US 2002/0038302) in view of Montoya (US 2001/0047292).

24. **Claim 11:**

While Maeda discloses *presenting a number of different and available themes to the client terminal* (see at least ¶0031-¶0032; see also Figures 2-3, the proposing unit retrieves questionnaire form data from the questionnaire data base containing a collection of categorized questions/answers with questionnaire forms categorized according to themes and provides the form to the requester PC, where the requester can then select questions types and answer content for the survey), *recognizing a theme that the client selects from the themes presented to the client terminal* (see at least ¶0031-0032; see also Figures 2-3; see also ¶0012, where the requester selects questions and answer content, such as a theme content, and stores the selected questions/answers (e.g. recognizing)), *memorizing the theme selected by the client and one or plural groups of questions* (see at least Figure 1; see also ¶0012, where the questionnaire database stores (e.g. memorizing) questions/answer types selected by the requester), and *when an access is generated from the audience terminal having the theme nominated, presenting a group of questions corresponding to the theme nominated to the audience terminal thereby urging the audience to make replies to the questions and further obtaining the replies* (see at least ¶0036, when a user clicks on a banner advertisement the questionnaire is displayed on the web page; see also ¶0040, (e.g. other methods to distribute questionnaire); see also ¶0042, where the aggregating unit aggregates responses and the proposing unit provides the response to the requester); Maeda does not disclose the following limitations; however Montoya does disclose:

- *by a plurality of clients registered for the theme selected* (Montoya see at least ¶0066, where a client becomes a registered member by completing a survey on a product currently owned by the client (e.g. selected theme))
- *presenting the replies to the plurality of clients registered for the theme, in a browseable form where analysis results by different question contents are combined with each other, based on the replies obtained* (Montoya see at least ¶0066; see also ¶0073, where cumulative survey results for the selected product (e.g. theme) are provided to a registered client upon request)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the selecting and generating questionnaire functionality of Maeda with the collecting and disseminating survey data as taught in Montoya in order to make available to client/users survey results from previously administered surveys (Montoya see ¶0015) for a similar product, further enabling a client/user to make decisions whether business or personal based on the cumulative survey results.

25. **Claim 21.**

While Maeda discloses *presenting a number of different and available question contents from the question providing unit to the client terminal* (see at least ¶0031-¶0032; see also Figures 2-3, where the proposing unit retrieves questionnaire form data from the questionnaire data containing a collection of categorized questions/answers and provides the form to the requester PC., the requester can then select questions types and answer content for the survey), Maeda does not disclose the following limitations; however, Montoya does disclose:

- *presenting a number of different and available question contents from the question providing unit to the audience terminal, thereby urging the audience to select a group of questions composed of the number of question contents* (see at least ¶0074, where the client is provided with a menu of surveys which the client previously participated and selects the survey which he wishes to take again or update answers)

- *on establishment of the selected group of questions corresponding to the audience terminal, urging the audience to make replies to the selected group of questions and further presenting the replies to the audience terminal, in a browseable form where analysis results by different question are combined with each other, based on the obtained replies* (Montoya see at least ¶¶0073-¶¶0074)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine selecting and generating questionnaire functionality of Maeda with the collecting and disseminating survey data as taught in Montoya in order to provide client/users with the ability to update or retake surveys previously taken to capture any changes in opinion or recommendations of a product.

Conclusion

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

- Epinion.com. "Epinion.com-Welcome." March 31, 2001.

<http://web.archive.org/web/20010331232950/http://www.epinions.com/>.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Renae Feacher** whose telephone number is **571-270-5485**. The Examiner can normally be reached Monday-Friday, 9:00 am - 5:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Beth Boswell** can be reached at **571-272-6737**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

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